IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

Bail Appl..No. 6683 of 2007()

CRIME NO. 237/02 OF CHERUTHURUTHY POLICE STATION
SC 340/05 OF SESSIONS JUDGE, FAST TRACK COURT-I, THRISSUR

PETITIONER/ACCUSED

KUNJIMON,AGED 24 YEARS,
S/O.MUHAMMEDKUTTY, EDAKKATTIL HOUSE
ATTOOR VILLAGE-DESOM, THALAPPILLY.

BY ADV. SRI.S.M.PREM
SMT.K.P.SANTHI
SRI.S.S.HUSSAIN
SRI.P.K.NIJOY

RESPONDENTS:

STATE OF KERALA REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 12/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6683 of 2007

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Dated this the 12th day of November, 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations under Section 376 I.P.C. Investigation is complete. Final report has already been filed. Cognizance has been taken by the learned Magistrate. Committal order was passed. The Sessions Court has taken cognizance. The case is now pending as S.C.340 of 2005 before the Fast Track Court-I, Trichur. Consequent to the non-appearance of the petitioner before the learned Sessions Judge, a warrant of arrest has been issued against the petitioner. The petitioner finds such warrant of arrest issued by the learned Sessions Judge chasing him.

2. According to the petitioner he is absolutely innocent. His failure/omission to appear earlier was not wilful, but was due to reasons beyond his control. The parties have settled their disputes. The petitioner has married the victim. They had settled the disputes before the matrimonial court also. In these

circumstances it is prayed that the petitioner may not be vexed with arrest and detention in the pending case.

3. It is certainly for the petitioner to appear before the learned Sessions Judge and explain to the learned Judge the circumstances under which he could not earlier appear before the learned Judge. I have no reason to assume that the learned Sessions Judge would not consider the application for bail to be filed by the petitioner when he surrenders before the learned Judge, on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Sessions Judge and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Judge must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself. I need only mention that

it will be open for the petitioner to place all materials before the learned Sessions Judge to show that the petitioner has already married the victim and has settled the disputes with the victim.

(R. BASANT)
Judge

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